



DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Announcement of Loan Application Procedures, and Deadlines for the Rural Energy Savings Program (RESP)

AGENCY: Rural Development, Rural Utilities Service, USDA.

ACTION: Notice of Solicitation for Applications (NOSA); the RESP Application Process and Deadlines.

SUMMARY: The Rural Utilities Service (RUS), an agency of the United States Department of Agriculture (USDA), is soliciting letters of intent for loan applications under the Rural Energy Savings Program (RESP), announcing the application process for those loans and deadlines for applications from eligible entities. These loans are made available under the authority of Section 6407 of the Farm Security and Rural Investment Act of 2002, as amended, (Section 6407). This notice describes the eligibility requirements, the application process and deadlines, the criteria that will be used by RUS to assess Applicants' creditworthiness, and how to obtain application materials.

DATES: The application process consists of two steps. To be considered for this funding, Applicants must submit their documentation no later than the mandatory dates set forth herein. Failure to comply with both of the following deadlines will prevent RUS from considering the Applicant for financial assistance in FY 2016.

Step 1: To be considered for financing in this fiscal year, an Applicant seeking financing must submit a Letter of intent to apply, as provided herein, in an electronic Portable Document Format (PDF) by electronic mail (email) to RESP@wdc.usda.gov no later than 11:59 p.m. (EST) on [INSERT DATE 45 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Late or incomplete Letters of Intent will not be considered by RUS.

Step 2: An RESP Applicant that has been invited in writing by RUS to proceed with the loan application, as provided in this NOSA, will have up to sixty (60) calendar days to complete the documentation for a complete application. The sixty (60) day timeframe will begin from the date the RESP Applicant receives an email with RUS' Invitation to proceed. If the deadline to submit the completed application falls on Saturday, Sunday, or a Federal holiday, the application is due the next business day. Instructions on how to electronically submit the loan application package will be included in the RUS Invitation to proceed to the RESP Applicant.

ADDRESSES: Copies of this NOSA and other information on the Rural Energy Savings Program may be obtained by:

- (1) Contacting Titilayo Ogunyale at (202) 720-0736 to request a copy of this Notice.

(2) Sending an electronic mail (email) to Titilayo.Ogunyale@wdc.usda.gov. The email must be identified as RESP Notice of Solicitation for Applications in the subject field.

(3) The Letter of intent must be submitted by the Applicant in an electronic PDF (PDF) not to exceed 10 Megabytes (10 MB) by electronic mail (email) to RESP@WDC.USDA.GOV on or before the deadline set forth herein. No paper letters of intent will be accepted.

(4) The completed loan application package must be submitted electronically following the instructions that will be outlined in the RUS Invitation to proceed to the RESP Applicant. The loan application package must be marked with the subject line “Attention: Titilayo Ogunyale, Senior Advisor; RESP Loan Application.”

FOR FURTHER INFORMATION CONTACT: Titilayo Ogunyale, Senior Advisor, Office of the Administrator, Rural Utilities Service, Rural Development, United States Department of Agriculture, 1400 Independence Avenue, SW, STOP 1510, Room 5136-S, Washington DC 20250-1510; Telephone: (202) 720-0736; Email: Titilayo.Ogunyale@wdc.usda.gov.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Utilities Service (RUS), USDA.

Funding Opportunity Title: Rural Energy Savings Program (RESP).

Announcement Type: Requests for Letter of intent and Applications

Catalog of Federal Domestic Assistance (CFDA) Number: 10.751

Dates: Submit the Letter of intent on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] and the completed loan application package on or before sixty (60) days from the receipt date of a written RUS Invitation to proceed.

Administrative Procedure Act Statement

This NOSA is being issued without advance rulemaking or public comment. The Administrative Procedure Act of 1946, as amended (5 U.S.C. 553)(APA), has several exemptions to rulemaking requirements. Among them is an exception for a matter relating to “loans, grants, benefits, or contracts.” Furthermore, the 30 day effective date policy is excepted for “good cause.”

USDA has determined, consistent with the APA that making these funds available under this NOSA for the RESP program is in the public interest since the Consolidated Appropriations Act, 2016, (Public Law No. 114-113) appropriated a budget authority of \$8,000,000 on the condition that the Agency launch RESP during the current fiscal year. In order to do this, the Agency decided to move forward with developing procedures for RESP within a NOSA instead of rulemaking in order to meet the statutory mandate to implement this new program. The Agency intends to test this new program this year with available funds under this NOSA and implement a permanent rule based on its findings.

Information Collection and Recordkeeping Requirements

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), OMB approved an emergency information collection request on RESP so RUS can begin the application period in the timeframe noted in this notice. RUS invites comments on this information collection. Comments on this notice of information collection must be received by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

Comments are invited on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Thomas P. Dickson, Acting Director, Program Development and Regulatory Analysis, USDA Rural Utilities Service, 1400 Independence Avenue, SW, STOP 1522, Room 5164, South Building, Washington, DC 20250-1522. Telephone: (202) 690-4492. FAX: (202) 720-8435. Email: Thomas.Dickson@wdc.usda.gov.

Title: Rural Energy Savings Program

OMB Control Number: 0572-0151

Type of Request: New Collection

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 6.39 hours per response.

Respondents: For-profit institutions, Not-for-profit institutions, State, Local or Tribal Government.

Estimated number of Respondents: 20.

Estimated Number of Responses per Respondent: 10.6.

Estimated Total Annual Burden on Respondents: 1,354.

Copies of this information collection can be obtained from Rebecca Hunt, Program Development and Regulatory Analysis, at (202) 205-3660, FAX (202) 720-8435 or email: Rebecca.Hunt@wdc.usda.gov.

Abstract: The collection of information consists of the items required to be submitted to the agency as part of the Letter of Intent and the application package. Entities seeking funding under this program will have to submit applications that include information establishing applicant and project eligibility, certifications that the applicant is a legal entity in good standing (as applicable), and operating in accordance with the laws of the state(s) where the applicant has a place of business, and agreements that are required for similar loan programs. The collection of information is vital for the agency to make informed decisions regarding the eligibility of borrowers and to ensure that funds obtained from the Government under the program are used appropriately (e.g., used for the purposes for which the loans were awarded).

Definitions and Rules of Grammatical Construction.

For the purpose of RESP, the following terms must have the following meanings:

Administrator means the Administrator of the Rural Utilities Service, an agency under the Rural Development mission area of the United States Department of Agriculture.

Applicant means an Eligible entity interested in applying for a RESP that is planning to submit a Letter of intent.

Commercially available technology means equipment, devices, applications, or systems that have a proven, reliable performance and replicable operating history specific to the proposed application. The equipment, device, application or system is based on established patented design or has been certified by an industry-recognized organization and subject to installation, operating, and maintenance procedures generally accepted by industry practices and standards. Service and replacement parts for the equipment, device, application or system must be readily available in the marketplace with established warranty applicable to parts, labor and performance.

Complete application means an application containing all information required by RUS to approve a loan and that is materially complete in form and substance satisfactory to RUS within the specified time.

Conditional commitment letter means the notification issued by the Administrator to an RESP Applicant advising it of the total loan amount approved for it as a RESP borrower, the acceptable security arrangement, and such controls and conditions on the RESP borrower's financial, investment, operational and managerial activities deemed necessary by the Administrator to adequately secure the Government's interest. This notification will also describe the accounting standards and audit requirements applicable to the transaction.

Conflict of interest means a situation or situations, event or series of events, that jointly or severely undermines an individual's judgement, ability, or commitment to providing an accurate, unbiased, fair and reliable assessment or determination about the cost-effectiveness of the Energy efficiency measures due to self-interest or cannot be justified by the prevailing and sound application of the generally accepted standards and principles of the industry.

Eligible entity means an entity described in section C.1. of this NOSA.

Energy audit means an inspection and analysis of energy flows in a building, process, or system with the goal of identifying opportunities to enhance energy efficiency. The activity should result in an objective standard-based technical report containing recommendations on the Energy efficiency measures to reduce energy costs or consumption of the Qualified consumer and an analysis of the estimated benefits and costs of pursuing each recommendation in a payback period not to exceed 10 years.

Energy efficiency measures means for or at property served by an Eligible entity, structural improvements and investments in cost-effective, commercially available technologies to increase energy efficiency. The improvements and investments must be for the purpose of decreasing the Qualified consumer's energy usage or costs.

Energy efficiency program (EE Program) means a program set up by an Eligible entity to provide financing to Qualified consumers so that they can reduce their energy use or costs by implementing energy efficiency measures.

Financial feasibility means an Eligible entity's ability to generate sufficient revenues to cover its expenses, sufficient cash flow to service its debts and obligations as they come due, and meet the financial ratios set forth in the applicable loan documents.

Invitation to proceed means the written notification issued by RUS to the Eligible entity acknowledging that the Letter of intent was received and reviewed, describing the next steps in the application process and inviting the Eligible entity to submit a complete application.

Letter of intent means a signed letter issued by an Applicant of notifying RUS of its intent to apply for a RESP loan and addressing all the elements identified in section D.2.a. of this NOSA.

Qualified consumer means a consumer served by an Eligible entity that has the ability to repay a loan made by an RESP borrower under the RESP program, as determined by the Eligible entity.

RESP applicant means an Eligible entity that has received a written Invitation to proceed from RUS to apply for a RESP loan.

RESP borrower means an Eligible entity with an approved RESP loan.

Small business means an entity that is in accordance with the Small Business Administration's (SBA) small business size standards found in 13 CFR part 121.

Special advance means an advance, not to exceed 4 percent of the total approved loan amount, that a RESP borrower may request to defray the start-up costs of establishing a new EE Program.

Start-up costs mean amounts paid or incurred for: (a) creating or implementing an active energy efficiency program; or (b) investing in the integration of an active energy efficiency program. Start-up costs may include, but are not limited to, amounts paid or incurred in the analysis or survey of potential markets, products such as software and hardware, labor supply,

consultants, salaries and other working capital directly related to creation or enhancement of an energy efficiency program consistent with RESP.

With regard to the rules of grammatical construction, unless the context otherwise indicates, “includes” and “including” are not limiting, and “or” is not exclusive.

Additional Items in Supplementary Information

- A. Program Description
- B. Federal Award Information
- C. Eligibility Information
- D. Application and Submission Information
- E. Agency Review of Letter of intent and Loan Application
- F. Federal Award Administration Information
- G. Federal Awarding Agency Contact
- H. Other Information

A. Program Description

The USDA through the Rural Utilities Service (RUS) provides RESP loans to Eligible entities that agree to, in turn, make loans to Qualified consumers for the purpose of implementing Energy efficiency measures. These loans are made available under the authority of Section 6407. Eligible Energy efficiency measures funded under this NOSA must be for or at a property or properties served by an RESP borrower, using commercially available technologies that would allow Qualified consumers to decrease their energy use or costs through cost-effective

measures including structural improvements to the property. Loans made by RESP borrowers under this program may be repaid through charges added to the Qualified consumer's bill for the property or properties for, or at which, energy efficiencies are or will be implemented. The purpose of the program is to help rural families and small businesses achieve cost savings by providing loans to Qualified consumers to implement durable cost-effective Energy efficiency measures.

It is to be noted that RESP and the Energy Efficiency and Conservation Loan Program (EECLP), 7 CFR 1710 Subpart H, are two separate energy efficiency programs that are both operated by RUS. These programs are distinct, however, the re-lending provisions of RESP are targeted at directly supporting EE actions undertaken by a more specific set of Qualified consumers. An additional distinction is that because the EECLP loan program level is anticipated at being significantly higher than that of RESP, entities seeking larger EE loans can pursue funding through EECLP. Also, applicants to RESP need not be utilities as in the case for EECLP. As a result, RUS anticipates that the primary applicants for RESP will be cooperatives with smaller-scale EE programs and non-traditional borrowers seeking lower loan levels than what is typically sought through EECLP.

B. Federal Award Information

Type of Award: Loan

Fiscal Year 2016 Funds: \$8,000,000 in budget authority with the loan program level yet to be determined.

Authority: RESP is a new program to be carried out by the Rural Utilities Service pursuant to Section 6407 of the Farm Security and Rural Investment Act of 2002, 7 U.S.C. 8107a, as amended; and Section 744, Title VII, Division A of the Consolidated Appropriations Act of 2016, Public Law 114-113, December 18, 2015.

C. Eligibility Information

1. Eligible entities include:

a. Any public power district, public utility district, or similar entity, or any electric cooperative described in section 501(c)(12) or 1381(a)(2) of the Internal Revenue Code of 1986, that borrowed and repaid, prepaid, or is paying an electric loan made or guaranteed by the Rural Utilities Service (or any predecessor agency);

b. Any entity primarily owned or controlled by 1 or more entities described in section C.1.a. of this NOSA; and

c. Any other entity that is an eligible borrower of the Rural Utilities Service, as determined under 7 CFR 1710.101.

2. Equity Contributions

a. To be eligible for a RESP loan, a newly created Eligible entity or an entity primarily owned or controlled by one (1) or more entities described in section C.1.a. of this NOSA must have a minimum equity position in the EE Program proposed to be funded with RESP at the time of the loan closing. The required equity position will be determined by the Administrator on a case-by-case basis based upon review of the risk profile of the Eligible entity and other security arrangements.

b. If the Administrator determines that the RESP Applicant under this section does not have acceptable equity, in the Energy Efficiency Program at the time of application, the Administrator may consider the following to meet such shortfall regarding equity:

i. The infusion of additional capital into the Energy efficiency program by an Investor to meet any shortfall. RUS may require that the additional capital be deposited into a RESP Applicant's special account subject to a deposit account control agreement with RUS prior to loan closing.

ii. An unconditional, irrevocable letter of credit satisfactory to the Administrator in the amount of the shortfall. RUS must be an unconditional payee under the letter of credit and the letter of credit must be in place prior to loan closing and remain in place until the loan is repaid.

iii. General obligation bonds issued by tribal, state or local governments in the amount of the shortfall. If the equity requirement is satisfied with general obligation bonds, any lien securing the bonds must be subordinate to the lien of the government securing the RESP loan.

iv. Any other equity requirements determined necessary by the Administrator to meet the shortfall.

3. Other

An Applicant may not submit more than one application in this funding cycle for the same EE Program. However, one or more Eligible entities may submit their applications using the same EE Program model.

D. Application and Submission Information

1. Sample Letter of intent

Interested parties may send an email to the contact listed in “For Further Information Contact” section of this NOSA to obtain an electronic sample of the Letter of intent. The sample Letter of intent can also be found online using the following web address:

<http://www.rd.usda.gov/resp/>

2. Content of Letter of Intent and RESP Application

Complete applications for loans to Eligible entities under this NOSA will be processed on a first-come-first-serve basis (queue) until funds appropriated to carry out RESP are expended. Applicants must submit the required information for Step 1, “Letter of intent,” (see paragraph a below), and upon a written Invitation to proceed from RUS must submit the required information for Step 2, “Application,” (see paragraph b). Loan applications for RESP funds will be processed in a two-step approach as described herein. Applicants must submit all the information identified in the Letter of intent “Evaluation Criteria Checklist” available online at the following web address: <http://www.rd.usda.gov/resp/>

a. Step 1 - Letter of intent. An Applicant interested in applying for a RESP loan must submit a Letter of intent to RUS. The following information must be included in the Letter of intent:

i. The description of the project must not exceed five pages (size 8.5 X 11) and must include the following:

A. A description of the service to be provided to Qualified consumers.

B. Identity of the staff or contractors that will be implementing the EE Program and their credentials.

C. Implementation plan that briefly addresses:

(1) The marketing strategy.

(2) How the Applicant will operate the relending process.

(3) A schedule showing sources and uses of funds to implement the EE Program.

(4) A brief description of the processes, procedures, and capabilities to quantify and verify the reduction in energy consumption or decrease in the energy costs of the Qualified consumers.

D. A list of eligible Energy efficiency measures that will be implemented.

ii. The Applicant must submit a copy of its balance sheet for the last 3 years. If applicable, the Applicant must provide the balance sheet for the last 3 years of the entity or entities providing equity or security for the RESP loan together with an explanation of the legal relationship among the legal entities.

iii. The Applicant must provide evidence of its performance measures and indicators for the 5 complete years prior to the submission of the loan application if the total loan amount exceeds 5 million dollars.

An Applicant with an existing EE Program in place by April 8, 2014, may describe the Energy efficiency measures, its implementation plan and its measurement and verification system for the existing program in its Letter of intent to expedite the application process.

b. Step 2 - Loan Application. Upon delivery of an Invitation to proceed, RUS will assign a General Field Representative (GFR) to assist the RESP Applicant during step 2 of the application process. The RESP Applicant's application package must include the following documents:

i. Cover Letter. A signed cover letter from the RESP Applicant's General Manager or highest ranking officer requesting a RESP loan under this NOSA.

ii. Board Resolution. A signed copy of the board resolution or applicable authorizing document approving and establishing the EE Program.

iii. Environmental Compliance Agreement. A copy of the duly executed Multi-tier Action Environmental Compliance Agreement (Multi-tier Agreement). A template of a Multi-tier Agreement can be found in Exhibit H of RD Instruction 1970-A, Environmental Policies and Procedures (<http://www.rd.usda.gov/files/1970a.pdf>). A copy of the Multi-tier Agreement will be provided to the RESP Applicant with the Invitation to proceed.

iv. Long-Range Financial Forecast. A long-range financial forecast approved by the applicable governing body of the RESP Applicant in support of its loan application. RUS encourages RESP Applicants to follow the format set forth in RUS Form 325, which may be

obtained from a GFR. The financial forecast must cover a period of at least 10 years and must demonstrate that the RESP Applicant's operation is economically viable and that the proposed loan is financially feasible. RUS may request projections for a longer period of time if RUS deems it necessary based on the financial structure of the RESP Applicant. The financial forecast and related projections submitted in support of a loan application must include:

A. The financial goals established for margins, debt service coverage, equity, and levels of general funds to be invested in the EE Program.

B. A pro forma balance sheet, statement of operations, and general funds summary projected for each year during the forecast period.

C. A full explanation of the assumptions, supporting data, and analysis used in the forecast, including the methodology used to project revenues, rates (if applicable), operating expenses, power costs (if applicable), and any other factors having a material effect on the balance sheet and the financial ratios such as equity and debt service coverage. The explanation should include a discussion of the historical experience of the RESP Applicant with respect to its market competitiveness. RUS may require additional data and analysis on a case-by-case basis to assess the probable future competitiveness of the RESP Applicant.

D. Current and projected cash flows.

E. Projections of future borrowings and the associated interest and principal expenses required to meet the projected investment requirements of the RESP Applicant.

F. Current and projected kW and kWh energy sales (if applicable).

G. Current and projected unit prices of significant variables such as retail and wholesale power prices, average labor costs, and interest (if applicable).

H. When applicable, current and projected system operating costs, including, but not limited to, wholesale power costs, depreciation expenses, labor costs and debt service costs.

I. Current and projected revenues from sales of services, including but not limited to, electric power and energy (if applicable).

J. Current and projected non-operating income and expense.

K. A sensitivity analysis may be required by RUS on a case-by-case basis taking into account such factors as the number and type of loads (if applicable), projections of future borrowings and the associated interest, projected loads, projected revenues, and probable future competitiveness of the RESP Applicant. RUS may request the RESP Applicant to factor in other elements in its sensitivity analysis.

L. The financial forecast must use the accrual method of accounting for analyzing costs and revenues and, as applicable, compare the economic results of the various alternatives on a present value basis.

M. When applicable, the financial forecast must include the expenditures for any maintenance determined to be needed in the current system's operation and maintenance review and evaluation in order to comply with the covenants in the loan documents.

N. An itemized budget for the activities to be implemented with the RESP funds and a discussion on how the loan loss reserve will be set up.

v. EE Program Implementation Work Plan (IWP). The RESP Applicant must produce, to the satisfaction of the Administrator, an IWP duly approved by the applicable governing body of the Eligible entity. A RESP Applicant may submit evidence of the credentials of a third party retained, or to be retained, to carry out the EE program. The statement of qualifications must show the party's experience carrying out the financial and technical expertise components of an EE program at the desired scale. The IWP must:

A. Describe the expected schedule to implement the EE Program with an itemized allocation of expected resources including anticipated costs assigned to each task.

B. Project the expected amount of loans made by the RESP Applicant to the Qualified consumers over the next 10 years.

C. Identify the anticipated amount of special advance for start-up costs and purposes over the expected schedule to draw down the funds attributable to such purposes.

D. Describe the schedule and the mechanism to fund the loan loss reserve. In addition, it must describe how the RESP Applicant will be using the revenues from the interest rate charged to the Qualified consumers.

E. Only include those activities and investments in an approved application as provided in the Multi-tier Agreement executed between RUS and the RESP Applicant.

F. Address all the following core elements:

(1) Marketing. In this section the RESP Applicant will identify the qualified customers by market segment that will benefit from the funding available under this NOSA and explains the marketing and outreach efforts to be executed in implementing the relending program. In the

identification of the marketing effort to the qualified customers, the RESP Applicant should provide racial and ethnic demographics for the service area or individuals.

(2) Operations. In this section the RESP Applicant will describe its energy efficiency program and how it will operate the relending process. The RESP Applicant must describe the Energy efficiency measures that it will fund and provide an estimate of the dollar amount of investment for each category of investments and/or activities. The RESP Applicant must also identify the staff that will be implementing the program and whether or not it will be outsourcing some or all of the execution of the program. In the event that an RESP Applicant partners with, or outsources to a third party to carry out the EE Program, it must describe the roles of each one of the parties involved in implementing the program and how the RESP Applicant will monitor third parties for legal and regulatory compliance. The RESP Applicant must describe its expertise to effectively implement Energy efficiency measures at the scale pursued in the EE Program funded by RESP. If the RESP Applicant envisions partnering with a third party or outsourcing the implementation of the energy efficiency loan program, it must adequately describe the credentials of the third party to effectively use Energy efficiency measures at the scale pursued in the EE Program. The RESP Applicant will be held accountable to RUS for actions or omissions of those partners or contractors, arising from or in connection with a program funded under this NOSA. The operational plan must also describe the process for documenting and perfecting collateral arrangements for Qualified consumer loans, if applicable.

(3) Financials. The RESP Applicant must submit a schedule showing sources and uses of funds to implement the EE program. This plan must include an itemized budget for each activity and investment category necessary to carry out the EE Program including, but not limited to, the loan loss reserve, the expected loan delinquency and default rates. The RESP Applicant must

describe how it is going to use the interest to be received from the loans to the Qualified consumers – if the RESP Applicant determines to charge interest. RUS may request additional information from an RESP Applicant in order to make its determination regarding loan feasibility and reasonably adequate security for the loan.

(4) Measurement and Verification. The RESP Applicant must describe the processes, procedures, and capabilities to quantify and verify the reduction in energy consumption or decrease in energy costs of the Qualified consumers. An RESP Applicant may provide a measurement and verification plan approved by a state or local regulatory body or sponsored by a governmental entity. A measurement and verification plan developed and certified by an industry recognized professional or entity will also be acceptable. Other measurement and verification plans may be acceptable if the Eligible entity can support, to the satisfaction of the Administrator, that the protocols and methodology used to verify the Energy efficiency measures cost-effective using generally accepted industry principles and standards. An RESP Applicant with an existing EE Program as of April 8, 2014, may submit the measurement and verification plan previously established with this program to fulfill this requirement

(5) The RESP Applicant must describe the processes and procedures that will be put in place to avoid a Conflict of interest in the implementation of the energy efficiency loan program for Qualified consumers.

vi. An opinion of counsel, acceptable to the Administrator, opining that the RESP Applicant is properly organized and has the required corporate authority to enter into the proposed transaction. It must also identify the proposed collateral to secure the RESP loan and certify that such collateral is free of liens or identify any issues that may arise for the Government regarding

the securing and perfecting of a first and prior lien on such property comprising the collateral. If real property owned by the Eligible entity will collateralize the transaction, the counsel's opinion must include a listing of the real property owned by the Eligible entity, the counties where it is located, and must certify that the descriptions in the property schedule are complete and adequate for inclusion in a security instrument to be executed by the Eligible entity to secure the RUS loan.

vii. Articles of incorporation and bylaws or other applicable governing and organizational documents. The RESP Applicant's articles of incorporation or other applicable organizational documents currently in effect, as filed with the appropriate state office, setting forth the RESP applicant's corporate purpose; and the bylaws or other applicable governing documents currently in effect, as adopted by the RESP Applicant's applicable governing body. RESP Applicants that are active RUS borrowers may comply with this requirement by notifying in writing to RUS that there are no material changes to the documents already on file with RUS.

3. Compliance with other federal statutes

The RESP Applicant must provide statement of compliance with other federal statutes, including but not limited to the following:

a. Nondiscrimination in Federally Assisted Programs. 7 CFR part 15, subpart A, Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture-Effectuation on Title VI of the Civil Rights Act of 1964, RUS Bulletin 1790-1, "Nondiscrimination Among Beneficiaries of RUS Program." Eligible entities must complete and submit RUS Form 266, "Assurance Agreement."

b. Standard Form 100—Equal Employment Opportunity Employer Report EEO—1. This form, required by the Department of Labor, sets forth employment data for Eligible entities with 100 or more employees. A copy of this form, as submitted to the Department of Labor, is to be included in the application for an insured loan if the Eligible entity has more than 100 employees.

c. Form AD-1049 – Certificate Regarding Drug Free Workplace Requirements. This form is required as prescribed in 2 CFR parts 182 and 421, Requirements for Drug Free Workplace (Financial Assistance). Information on all of your organization’s known workplaces by including the actual address of buildings (or parts of buildings) or other sites where work under the award takes place. Workplace identification is required under the drug-free workplace requirements in Subpart B of 2 CFR part 421, which adopts the Government-wide implementation (2 CFR part 182) of the Drug-Free Workplace Act.

d. Form AD-1047 – Certification Regarding Debarment, Suspension. This form is required in accordance with 2 CFR part 417 (Nonprocurement Debarment and Suspension) supplemented by 2 CFR part 180, if it applies. See the section heading is “What information must I provide before entering into a covered transaction with the Federal Government?” located at 2 CFR 180.335.

e. Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency.” For information on limited English proficiency and agency-specific guidance, go to <http://www.LEP.gov>.vi. Lobbying for Grants, Loans, Contracts and Cooperative Agreements. The following information on lobbying is required pursuant to 2 CFR part 418. The RESP Applicant should consult RUS before submitting this information.

f. Report on Federal debt delinquency. This report indicates whether or not the RESP Applicant is delinquent on any Federal debt.

g. Certify Accounting, Auditing, and Reporting Requirements. The RESP Applicant must certify to RUS that it is aware of and will abide by the accounting, auditing, and reporting requirements as described within the Federal Award Administration Information section of this NOSA.

h. Dun and Bradstreet Universal Numbering System (DUNS). The Dun and Bradstreet Universal Numbering System (DUNS Unique entity identifier and System for Award Management (SAM). Applicants must supply a Dun and Bradstreet Data Universal Numbering System (DUNS) number with their Letters of Intent and RESP Applicants with their loan application. Please see <http://fedgov.dnb.com/webform>. RESP Applicant are required to be registered in SAM before submitting an application, provide a valid unique entity identifier in the application, and continue to maintain an active SAM registration with current information at all times during which the entity has an active Federal award or an application or plan under consideration by a Federal awarding agency. The agency may not make a Federal award to an RESP Applicant until the RESP Applicant has complied with all applicable unique entity identifier and SAM requirements. If an RESP Applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the RESP Applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another RESP Applicant. Applicants may register for the SAM at <http://www.sam.gov/portal/public/SAM>. To remain registered in SAM, the Applicant must review and update the information in the SAM

database annually from the date of initial registration or last update. Applicants must ensure that the information in the database is current, accurate, and complete.

4. Funding Restriction

a. Loan Disbursements. RUS will disburse RESP funds to the RESP borrower in accordance with the terms of the executed loan agreement. Any disbursements of loan funds to a RESP borrower in a single year must not exceed 50 percent of the approved loan amount.

i. The RESP borrower must provide to the Qualified consumers all RESP loan funds that the RESP borrower receives within one year of receiving them from RUS. If the RESP borrower does not re-lend the RESP loan funds within one year, the unused RESP loan funds, and any interest earned on those RESP loan funds, must be returned to the Federal Government and will be applied to the RESP borrower's debt. The RESP borrower will not be eligible to receive additional RESP loan funds from RUS until providing evidence, satisfactory to RUS, that RESP loan funds from a previous advance have been fully relent to Qualified consumers or returned to the Federal Government.

ii. RUS will disburse the RESP loan funds in advance if the following requirements are met:

A. The RESP borrower has established written procedures that will minimize the time elapsing between the transfer of RESP loan funds from RUS and their disbursement to the Qualified consumer; and (ii) the requests for advances made by the RESP borrower are limited to the minimum amounts needed and timed to be in accordance with the actual immediate cash needs to carry out the Energy Efficiency program.

B. Loan term for loans to Qualified consumers. Each loan made by the RESP borrower to a Qualified consumer may not exceed a term of 10 years.

C. Unauthorized uses of funds. The RESP borrower must not finance the purchase or modification of personal property with proceeds from the RESP loan unless the personal property is or becomes attached to real property (including a manufactured home) as a fixture. The RESP borrower must keep adequate processes, procedures and records and must not commingle RESP funds with other sources of funding in the implementation of an EE Program.

5. Submission Requirements

The application process consists of two steps. To be considered for funding in this fiscal year, Applicants must submit their documentation no later than the mandatory dates set forth above.

a. To be considered for financing this fiscal year, an Applicant must submit its mandatory Letter of intent, that complies with the requirements in section D(2) of this NOSA, in a PDF file, not to exceed 10 MB in size, by electronic mail (email) to RESP@WDC.USDA.GOV no later than 11:59 p.m. (EST) on [INSERT DATE 45 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

b. By submitting the Letter of intent, the Applicant certifies to RUS that it has the intent of submitting a complete RESP loan application on or before the date set forth as the application deadline in the event that RUS provides an Invitation to proceed. RUS will not consider Letters of intent where the project description exceeds five (5) pages. An Invitation to proceed with the loan application sent by the RUS is not to be deemed as an offer by the Agency. In extending an Invitation to proceed to an Applicant in the queue, RUS reserves the right to meet overall RUS

Program objectives and therefore, may notify the Applicant that the amount of financing to be awarded is below the level sought by the Applicant.

c. Completed Loan Application. A RESP Applicant that has received an Invitation to proceed, as provided herein, will have up to sixty (60) calendar days to complete the documentation required for the loan application package. The 60-day timeframe will begin from the date RUS delivers the Invitation to proceed to the point of contact identified in the Letter of intent. The Administrator may grant a short extension of time to complete the documentation required for an application if, in the Administrator's sole judgment, extraordinary circumstances prevented the RESP Applicant from completing the application within the timeframe herein stipulated (60 days).

d. Applicants and RESP Applicants have appeal or review rights for Agency decisions made under this NOSA. Programmatic decisions based on clear and objective statutory or regulatory requirements are not appealable; however, such decisions are reviewable for appeal ability by the National Appeals Division (NAD). An Applicant can appeal any Agency decision that directly and adversely impacts it. Appeals will be conducted by USDA NAD and will be handled in accordance with 7 CFR part 11.

e. In the event of system problems during the submittal of the Letter of intent please contact :
Titilayo Ogunyale, Senior Advisor, Office of the Administrator, Rural Utilities Service, Rural Development, United States Department of Agriculture, 1400 Independence Avenue, SW, STOP 1510, Room 5136-S, Washington DC 20250-1510; Telephone: (202)720-0736; Email: Titilayo.Ogunyale@wdc.usda.gov. [INSERT CONTACT INFORMATION FOR IT SUPPORT]

E. Agency Review of Letter of intent and Loan Application

1. Letter of Intent

RUS will consider complete Letters of intent as they are received. Letters of intent will be reviewed by RUS for the following:

- a. The legal identity and status of the entity and eligibility to participate in RESP in accordance with section C. of this NOSA.
- b. Compliance with meeting the purpose of Section 6407 to help rural families and small businesses achieve cost savings by providing loans to Qualified consumers to implement durable cost-effective Energy efficiency measures.
- c. The financial status of the Applicant to determine the Applicant's likelihood to complete the full application.
- d. The feasibility of the project.
- e. Upon review of the Letters of Intent, RUS will issue a notification to the Applicant indicating the status of its application by stating one of the following:
 - i. Acknowledgment of receipt of the Letter of intent that was submitted before the deadline but was deemed incomplete. This notification will include the reasons the Letter of intent was deemed incomplete. The Applicant may resubmit a completed Letter of intent within the original deadline of this NOSA.

ii. Acknowledgement of receipt of the Letter of intent that was submitted before the deadline and was deemed complete but will not be receiving an Invitation to proceed for the reasons cited.

iii. Acknowledgement of receipt of the Letter of intent that was submitted before the deadline and was deemed complete and issuance of an Invitation to proceed. This Invitation to proceed will include your placement in the queue and identification of the RUS staff that will be assisting the RESP Applicant in the application process.

2. Loan Application Review

Loans made to RESP Applicants for eligible purposes under this program will be made only when the Administrator, in his judgment, finds that there is reasonably adequate security and the loan will be repaid within the time agreed.

a. Term of the loan. The loan term must not exceed 20 years from the date on which the loan is closed. The Administrator will only make a loan offer to the RESP Applicant in a Conditional commitment letter. Upon receipt of the acceptance of the loan offer from the RUS Borrower, RUS will begin to prepare the loan documents with the assistance of the Eligible entity. Upon completion of the loan documents, RUS will forward the loan documents to the RESP borrower.

b. Loan Feasibility. Based on the complete application, RUS must have reasonable assurance that the loan, together with all other outstanding loans and other obligations of the RESP Applicant, will be repaid in full as scheduled, in accordance with the loan documents. RUS will consider the following criteria to evaluate loan feasibility:

- i. The projections of the expected amount of loans to Qualified consumers per year and the average size of those loans per customer class. Those projections must be based on reasonable assumptions and adequate supporting data and analysis.
- ii. The expected rates to the Qualified consumers, including interest rate, application fees, servicing fees and any other fees expected to be charged to the Qualified consumer per customer class. The RESP Applicant must demonstrate the basis for its anticipated market penetration assuming these service charges.
- iii. The projected revenues, expenses, applicable margins and any other financial information or any other reliable source of revenue of the RESP Applicant that could enable RUS to assess its ability to repay the loan within a term not to exceed 20 years.
- iv. Ability of the RESP borrower to meet the required coverage ratios. The Administrator, on case-by-case basis, may set financial coverage ratios based on the risk profile of the RESP Applicant and specific loan terms. Those financial ratios will be included in the RESP borrower's loan documents with RUS. Existing RUS borrowers will be subject to their current debt service coverage ratios in their current loan documents, unless notified otherwise.
- v. The economics of the RESP Applicant's operations and service area are such that Qualified consumers may reasonably be expected to pay the proposed rates repay the loans for energy efficiency in such levels so that the RESP borrower may sufficiently cover all its expenses and meet the debt service coverage ratio set by the Administrator.
- vi. Possible risk of reduction in electric system demand associated with anticipated efficiency improvements within the consolidated pool of Qualified consumers that could impair the RESP Applicant's ability to repay the RUS loan within the agreed term of the loan.

vii. Possible risk of loss of portions of the RESP Applicant's business in a given area to third party competitors, or other causes that could substantially impair loan feasibility.

viii. The RESP Applicant's management experience implementing EE Programs similar in scale and type to the one to be financed with RESP funds.

ix. Supplemental sources of funding available to the RESP Applicant to implement the Energy efficiency program that enhance the creditworthiness of the RESP applicant.

x. The RESP Applicant has implemented adequate financial and management controls and there are and have been no significant irregularities.

xi. Any other relevant information pertaining to credit enhancement mechanisms available to the RESP Applicant relevant to a determination by RUS of creditworthiness.

c. Loan Security. The Administrator will make loans under the RESP only if, in his judgement, the security is reasonably adequate. Loans will ordinarily be secured by a first and prior lien on substantially all the RESP borrower's property, and in any event will be secured by the best security position practicable in a manner which will adequately protect the interest of the Government during the repayment period of the loan.

i. Liens and Lien Sharing. RUS may in certain circumstances agree to share its first lien position with another lender provided the RESP loan is adequately secured and the security arrangements are acceptable to RUS. In such circumstances, RUS will consider entering into joint security arrangements with other lenders on a *pari pasu*, prorated basis. For existing RUS borrowers, the agency may, at its sole discretion, rely on existing security arrangements with RUS.

ii. Collateral. Collateral that is used to secure a loan must be free from liens or security interests other than those permitted by RUS or existing security documents. RUS generally requires that borrowers provide it with a first priority lien on all of the borrower's real and personal property, including intangible personal property and any property acquired after the date of the loan. This lien will ordinarily be in the form of a mortgage by the RESP borrower to the Government or a deed of trust between the RESP borrower and a trustee satisfactory to the Administrator, together with such additional security documents as RUS may deem necessary in a particular case. When a RESP borrower is unable by reason of preexisting encumbrances, or otherwise, to furnish a first priority lien on its entire system, the Administrator may accept other forms of security, such as a parent guarantee, state guarantee, an irrevocable letter of credit, or a pledge of revenues if the Administrator determines such credit support is reasonably adequate and otherwise acceptable in form and substance.

iii. The requirements for coverage ratios will be set forth in the RESP borrower's loan documents with RUS. The minimum coverage ratios required of RESP borrowers, whether applied on an annual or average basis will be determined by the Administrator on case-by-case basis based on the risk profile of the RESP Applicant and specific loan features. Existing RUS borrowers will be subject to their current debt service coverage ratios.

vi. When new loan documents are executed, the Administrator may, on a case-by-case basis, increase the coverage ratio of the RESP borrower if the Administrator determines that higher ratios are required to ensure the repayment made by RUS. Also, the Administrator may, on a case-by-case basis, reduce the coverage ratios if the Administrator determines that the lower ratios are required to ensure the repayment of the loan made by RUS.

3. Loan Terms and Conditions

a. General. This section provides the core terms and conditions that RUS will apply in making loans under the RESP. The Administrator, at his sole discretion, may add other terms and conditions in a loan under this NOSA to ensure the RESP loan is timely repaid and is adequately secured.

b. Loan Term. RUS will make loans to RESP Applicant under RESP for a term not to exceed 20 years from the date on which the loan is closed.

c. Interest rate. Loans made under RESP will not bear interest (0%) although indebtedness not paid when due will be subject to interest, penalties, administrative costs and late fees as provided in the loan documents.

d. Repayment. The repayment of each advance to the RESP borrower must be amortized for a period not to exceed 10 years. However, the repayment of the special advance must be during the 10-year period beginning on the date on which the special advance is made. A RESP borrower may elect to defer the repayment of the special advance to the end of the 10-year period. However, all amounts advanced on the loan by RUS to the RESP borrower must be paid prior to the final maturity which must not exceed 20 years.

e. Loan Disbursements. RUS will disburse loan funds to the RESP borrower in accordance with the terms of the loan documents. Excluding the special advance for start-up activities, all loan funds will be disbursed either as an advance in anticipation of consumer loans to be made by the RESP borrower; or as a reimbursement for eligible program costs, including consumer loans already made, once the RESP borrower has complied with the loan covenants. Within a 12-month consecutive period, any disbursements of loan funds to an RESP borrower must not exceed 50 percent of the approved loan amount.

The RESP borrower must provide to the Qualified consumers all RESP loan funds that the RESP borrower receives as advances from RUS within one year of receiving them from RUS. If the RESP borrower does not re-lend RUS funds within one year, the unused loan funds, and any interest earned on those loan funds, must be returned to the government and will be applied to the RESP borrower's debt. The RESP borrower will not be eligible to receive additional loan funds, if available, from RUS until providing evidence, satisfactory to RUS, that loan funds from a previous advance have been fully relented to Qualified consumers or returned to the government.

RUS will disburse the RESP loan funds for anticipated consumer loans if the following requirements are met: (1) The RESP borrower has established written procedures that will minimize the time elapsing between the transfer of funds from RUS and their disbursement to the Qualified consumer; and (2) the requests for advances made by the RESP borrower are limited to the minimum amounts needed and timed to be in accordance with the actual immediate cash needs to carry out the EE Program.

f. **Equity Requirements.** The required equity position would be determined by the Administrator on a case-by-case basis upon review of the risk profile of the RESP Applicant and the anticipated security arrangements as provided further in Section C(2)(b) in this NOSA.

i. Any additional equity requirement determined necessary by the Administrator will be set forth in the loan documents as a condition to the RESP loan.

ii. The Administrator reserves the right to modify or waive the requirements of this section if the Administrator believes such modifications or waiver are in the best interest of the government and the Administrator has determined that the loan will be repaid in the designated time period and the security is adequate.

g. Loans to Qualified consumers - General. An Eligible entity must use the proceeds from a RESP loan only to make loans to Qualified consumers for the purpose of implementing Energy efficiency measures.

i. Interest rate. Loans made by a RESP borrower to a Qualified consumer may bear interest not to exceed 3 percent. Proceeds from the interest charged to the Qualified consumers may be used to establish a loan loss reserve, and to offset personnel and program costs necessary to carry out the program.

ii. Purpose of the loan to the Qualified consumer. Loans made to a Qualified consumer must be to finance Energy efficiency measures for the purpose of decreasing energy (not just electricity) usage or costs of the Qualified consumer by an amount that ensures, to the maximum extent practicable, that a loan term of not more than 10 years will not pose an undue financial burden on the Qualified consumer as determined by the RESP borrower.

iii. Loan term to Qualified consumers. Loans made by the RESP borrower to Qualified consumers may not exceed 10 years.

iv. Repayment of the Qualified consumer loan. Qualified consumers must repay their loans to the RESP borrower through charges added by the RESP borrower to the electric bill for the property for, or at which, the Energy efficiency measures are or will be implemented. The repayment mechanism adopted to implement an EE Program under RESP must not prevent the voluntary prepayment of the loan by the owner of the property. A RESP borrower may adopt any additional repayment mechanism to carry out its EE Program with RESP proceeds as long as it can demonstrate that the proposed repayment mechanism has appropriate risk mitigation

features or is required to ensure repayment to the RESP borrower if the Qualified consumer will no longer be a customer of the RESP borrower.

v. Energy Audit. Loans made by a RESP borrower to a Qualified consumer using RESP loan funds must require an Energy audit by the RESP borrower to determine the impact of the proposed Energy efficiency measures on the energy costs and consumption of the Qualified consumer. The RESP borrower may engage contractors to carry out the Energy audits necessary to fulfill this requirement. In so doing, the RESP borrower must engage contractors with adequate expertise to perform the Energy audits according to the applicable standards of the industry. Contractor's adequate expertise may be determined by using the following criteria:

A. Contractor's staff possesses a current residential or commercial Energy auditor or building analyst certification from a national, industry-recognized organization.

B. Contractor's staff possesses proficiency in the knowledge, skills and abilities needed to conduct whole house assessments, building performance diagnostics and reasoning, and estimates of energy savings from improvement installations (via calculations or a modeling software tool) accredited by training and credentialing. The credentialing process must be at least as robust as those employed by nationally recognized certification bodies or suitable to meet or exceed the rigor of the standards of federal, state or local government entities.

C. The contractor must demonstrate adequate capacity and resources to engage customers, conduct whole house assessments, building performance testing and diagnostic reasoning, and fulfillment of all program data collection and reporting requirements. This includes having access to satisfactory diagnostic equipment, tools, qualified staff, data systems and software, and administrative support.

D. The contractor must be current and in good standing with all local registration and licensing requirements for their specific region and trade.

E. The contractor must employ or sub-contract to companies with workers who are qualified to install or physically oversee the installation of home performance improvements in compliance with local building codes and industry-accepted protocols.

F. In the absence of fulfilling the first criterion under this subsection, the contractor for commercial Energy audits, must meet one of the following criteria:

(1) Be a licensed professional engineer in the state in which the audit is conducted with at least 1 year experience and who has completed at least two similar type Energy audits;

(2) Be an individual with a four-year engineering or architectural degree with at least 3 years of experience and who has completed at least five similar type Energy audits; or

(3) Be an individual with an energy auditor certification recognized by the U.S. Department of Energy through its Better Buildings Workforce Guidelines project. For related information please visit: <https://www4.eere.energy.gov/workforce/projects/workforceguidelines>.

vi. The credentials of the energy auditors used or proposed to be used by the RESP Applicant will be subject to RUS review. RUS may reject a loan application or refuse to disburse loan proceeds to the RESP borrower that fails to demonstrate that the Energy audits will be or have been performed by qualified individuals.

h. Repayment. The RESP borrower is responsible for fully repaying the RESP loan to RUS according to the loan documents regardless of repayment by its Qualified consumers.

i. Material changes in borrower circumstances. A RESP Applicant must, after submitting a loan application, promptly notify RUS of any changes in its circumstances that materially affect the information contained in the loan application.

j. Eligible Activities and Investments.

i. General. A RESP borrower must make loans to Qualified consumers for the purpose of decreasing their energy (not just electricity) use or costs.

ii. A RESP borrower may provide financing to Qualified consumers to implement or invest in one or more set of Energy efficiency measures listed below in this paragraph. However, a RESP borrower may be able to fund other Energy efficiency measures if it can justify, to the satisfaction of the Administrator, that the Energy efficiency measure is cost effective and the technology is commercially available. Eligible activities and investments include, but are not limited, to:

A. Lighting:

(1) Lighting fixture upgrades to improve efficiency.

(2) Re-lamping to more energy efficient bulbs.

(3) Lighting controls.

B. Heating, Ventilation, and Air Conditioning (HVAC):

(1) Central Air Systems – Energy Star qualified equipment.

(2) Window AC Units – Energy Star qualified equipment.

- (3) Economizers.
- (4) Heat pumps.
- (5) Furnaces – Energy Star qualified equipment.
- (6) Air Handlers.
- (7) Programmable controls.
- (8) Duct sealing.

C. Building Envelope Improvements:

- (1) Improved insulation – added insulation beyond existing levels, or for new construction, above existing building codes.
- (2) Caulking and weather stripping of doors and windows.
- (3) Window upgrades – Energy Star qualifying windows.
- (4) Door upgrades – door upgrades could include man-doors, and overhead doors with integrated insulation and energy efficient windows.
- (5) Any material listed in Appendix A to Part 440 of the U.S. Department of Energy's Weatherization Assistance Program, 10 CFR Part 440, Appendix A - Standards for Weatherization Materials.

D. Water Heaters.

E. Compressed Air Systems.

F. Motors:

(1) High efficiency motors – motors with a rated efficiency beyond the Energy Policy Act standards.

(2) Variable frequency drive.

G. Boilers, dryers, heaters and process-related equipment or equipment not otherwise specified, e.g. commercial coolers and freezers.

H. Demand Management or Load Shifting.

I. Energy audits.

J. On or Off Grid Renewable energy systems if consistent with the statutory purpose of RESP.

K. Energy storage devices.

L. The replacement of existing fuel consuming equipment using a particular fuel with more efficient fuel consuming equipment that uses another fuel or the same fuel but with a more efficient output as long as in either of the cases there is no increase in direct greenhouse gas emissions.

M. Energy efficient appliance upgrades if attached to real property.

N. Irrigation or water and waste disposal system efficiency improvements.

O. Necessary and incidental activities and investments directly related to implementation of an Energy efficiency measure.

F. Federal Award Administration Information

1. Federal Award Notices

A successful loan RESP Applicant will receive a Conditional commitment letter from the Administrator notifying it of the total loan amount approved by RUS; any additional controls on the its financial, investment, operational and managerial activities; acceptable security arrangements; and such other conditions deemed necessary by the Administrator to adequately secure the Government's interest and ensure repayment. Receipt of a Conditional commitment letter from the Administrator does not authorize the RESP borrower to commence performance under the award. Any RUS determinations still needed as specified in the Conditional commitment letter must be concluded before the loan will be made. RUS will notify the RESP borrower when it is authorized to commence performance using RESP funds.

2. Administrative and National Policy Requirements

The items listed in Section D and Section E of this notice implement the appropriate administrative and national policy requirements, which include but are not limited to:

- a. Execution of a RESP loan agreement and related loan documents;
- b. Compliance with policies, guidance, and requirements as described in Section D(2)(c) of this notice, and any successor regulations.

3. Reporting

- a. Performance Reporting. RUS will establish periodic reporting requirements. These will be enumerated in the loan documents.

b. Accounting Requirements. RESP borrowers must follow RUS' accounting requirements. These requirements, which will be specified in the Conditional commitment letter, include, but are not limited to, the following:

i. RUS accounting requirements include compliance with Generally Accepted Accounting Principles, as well as compliance with the requirements of the applicable regulations: 7 CFR part 200 (for RESP borrowers, under this CFR Part, the term "grant recipient" will also mean loan recipient) or the system of accounting prescribed by RUS Bulletin 1767. The Administrator may modify the accounting requirements if, in his judgement, it is necessary to satisfy the purpose of Section 6407.

ii. RESP borrowers must comply with all reasonable RUS requests to support ongoing monitoring efforts. The RESP borrowers must afford RUS, through their representatives' reasonable opportunity, at all times during business hours and upon prior notice, to have access to and the right to inspect any or all books, records, accounts, invoices, contracts, leases, payrolls, timesheets, cancelled checks, statements, and other documents, electronic or paper of every kind belonging to or in possession of the RESP borrowers or in any way pertaining to its property or business, including its parents, affiliates, and subsidiaries, if any, and to make copies or extracts therefrom.

c. Audit Requirements. RESP borrowers will be required to prepare and furnish to RUS, at least once during each 12-month period, a full and complete report of its financial condition, operations, and cash flows, in form and substance satisfactory to RUS, audited and certified by an independent certified public accountant, satisfactory to RUS, and accompanied by a report of such audit, in form and substance satisfactory to RUS. RESP borrowers must follow the 7 CRF

1773, Policy on Audits for RUS borrowers or 2 CFR part 200, subpart F audit requirements. The Administrator may modify the audit requirements if, in his judgement, it is necessary to satisfy the purpose of Section 6407.

G. FEDERAL AWARDING AGENCY CONTACT

Titilayo Ogunyale, Senior Advisor, Office of the Administrator, Rural Utilities Service, Rural Development, United States Department of Agriculture, 1400 Independence Avenue, SW, STOP 1510, Room 5136-S, Washington DC 20250-1510; Telephone: (202) 720-0736; Email: Titilayo.Ogunyale@wdc.usda.gov.

H. OTHER INFORMATION

1. Other Funding Opportunities

Applicants may also consider the funding opportunities under the Energy Efficiency and Conservation Loan Program, 7 CFR 1710, Subpart H.

2. USDA Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual

orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form.

To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

a. mail: U.S. Department of Agriculture

Office of the Assistant Secretary for Civil Rights

1400 Independence Avenue, SW

Washington, DC 20250-9410;

- b. facsimile: (202) 690-7442; or
- c. Email: program.intake@usda.gov.
- d. USDA is an equal opportunity provider, employer, and lender.

Dated: June 15, 2016

Brandon McBride
Administrator, Rural Utilities Service

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